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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FILIPPO COSTANZO, SAVERIO RONCOLINI,
and ANTONIO ROSSI

Appeal 2008-3358
Application 09/897,708
Technology Center 2100

Decided:¹ March 9, 2009

Before JAMES D. THOMAS, LEE E. BARRETT, and
STEPHEN C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two month time period for filing an appeal or commencing a civil action, as recited in 37 CFR § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 2, 4-17, 19-22, 24-39, 41-44, 46-51, 53-55, 57, and 58. Claims 3, 18, 23, 40, 45, 52, 56, and 59-62 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

The Invention

The disclosed invention relates generally to audio-video data switching (Spec. 1). Specifically, a user controls switching between different cameras such that neither audio nor video interruptions occur (*id.* at 3). When a user wishes to change from a first point of view to a second point of view, a feed distributor switches video files such that the audio file is not altered (*id.* at 7).

Independent claim 1 is illustrative:

1. A computer system for viewing and switching of audio-video data, comprising:
 - a plurality of audio and video sources containing information referring to an event;
 - a streaming server, streaming the contents of a first audio file and a first video file from the audio and video sources to a plurality of users over a network, the first audio file being interleaved with the first video file, the streaming server establishing separate sessions with the plurality of users by sending each user a separate stream;
 - a feed distributor, connected between the audio and video sources and the streaming server, the feed distributor controllably feeding the first audio file and first video file to the streaming server; and

a user-operated control unit communicating with the feed distributor and controlling operation of the feed distributor, so as to instruct the feed distributor to switch between video files whereby, upon switching, the feed distributor feeds to the streaming server a second video file which is different from the first video file without altering the first audio file, the second video file being interleaved with the first audio file.

The References

The Examiner relies upon the following references as evidence in support of the rejections:

Gear	US 5,170,252	Dec. 08, 1992
Danneels	US 5,410,698	Apr. 25, 1995
Matthews	US 5,600,368	Feb. 04, 1997
Burnard	US 5,613,122	Mar. 18, 1997
Aldred	US 5,649,105	Jul. 15, 1997
Hannah	US 5,706,054	Jan. 06, 1998
Sato	US 5,884,004	Mar. 16, 1999
Gordon	US 6,208,335 B1	Mar. 27, 2001
Fryer	US 6,233,428 B1	May 15, 2001
Hazra	US 6,510,553 B1	Jan. 21, 2003
		(filed Oct. 26, 1998)
Soopenberg	US 6,757,305 B1	Jun. 29, 2004
		(filed Jun. 10, 1999)

Posting of Mike Kunda & Jay T. McCanta, *Question on 18" Dish Service Providers!*, to Google Groups Newsgroup: alt.home.repair (Dec. 27, 1997) (hereinafter “Kunda/McCanta”).

The Rejections

1. The Examiner rejects claims 1, 2, 4-9, 20-22, 24-28, 42-44, 46-48, 50, 51, 53, and 54 under 35 U.S.C. § 103(a) as being unpatentable over Matthews, Fryer, Gear, and Sato.
2. The Examiner rejects claims 10, 32, 49, and 57 under 35 U.S.C. § 103(a) as being unpatentable over Matthews, Fryer, Gear, Sato, and Hannah.
3. The Examiner rejects claims 11-13, 33-35, and 58 under 35 U.S.C. § 103(a) as being unpatentable over Matthews, Fryer, Gear, Sato, and Soepenberg.
4. The Examiner rejects claims 14 and 36 under 35 U.S.C. § 103(a) as being unpatentable over Matthews, Fryer, Gear, Sato, Soepenberg, and Aldred.
5. The Examiner rejects claims 15 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Matthews, Fryer, Gear, Sato, Gordon, and Burnard.
6. The Examiner rejects claims 16, 17, 38, and 39 under 35 U.S.C. § 103(a) as being unpatentable over Matthews, Fryer, Gear, Sato, and Hazra.
7. The Examiner rejects claims 19 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Matthews, Fryer, Gear, Sato, and Kunda/McCanta.

8. The Examiner rejects claims 29-31 and 55 under 35 U.S.C. § 103(a) as being unpatentable over Matthews, Fryer, Gear, Sato, and Danneels.

ISSUE

Appellants assert that “Sato makes reference to contemporaneous multiple AV streams” (App. Br. 10) but that “the ‘second video file’ of Sato cannot be ‘interleaved with *the first audio file*’ as recited in claim 1” (*id.*).

The Examiner finds that “[i]t is clear . . . that a first audio file (common audio data) is interleaved into a second video file (each angle in a multi-angle scene) [in Sato]” (Ans. 26) because “the appellant does not clearly define the first audio file to distinguish over an exact instance of the data, a copy of the data, or different data with the same file name” (*id.*).

Did Appellants demonstrate that the Examiner erred in finding that Sato discloses or suggests switching between video files including streaming a second video file which is different from the first video file without altering the first audio file, the second video file being interleaved with the first audio file?

FINDINGS OF FACT

The following Findings of Facts (FF) are shown by a preponderance of the evidence.

1. Matthews discloses “an interactive television system” (col. 2, l. 66) including a multiple “camera arrangement around [a] baseball field”

(col. 3, ll. 44-45) in which “video streams generated by the cameras are carried on separate channels which are simultaneously broadcast to the viewer’s home” (col. 3, ll. 58-60) and are “assigned to respective channels 121-127” (col. 3, l. 67 to col. 4, l. 1).

2. Matthews discloses that a “viewer simply pushes one of the dedicated camera control buttons 34 on the remote control handset 26” (col. 4, ll. 16-17) to achieve “intuitive, intelligent control of the various camera viewpoints” (col. 4, ll. 52-53) such that “the virtual channel selector switches from the present camera angle to virtual channel 127 which is carrying the video stream from third base camera 48” (col. 5, ll. 44-46).
3. Fryer discloses a “child care monitoring network” (Abstract) that includes “at least one video camera 1” (col. 6, l. 14) that “is connected via a local area network 5 . . . to a multi-media computer” (col. 6, ll. 24-27).
4. Fryer discloses that a router supplies “video streams . . . to broadcast server 3” (col. 6, ll. 32-34) that is “capable of serving a number of centers, . . . serving to split the video stream from a camera in the classroom into multiple video streams depending on demand from subscriber computers” (col. 6, ll. 36-40).
5. Gear discloses “interconnecting and mixing multiple audio and video streams associated with multiple media devices” (col. 2, ll. 31-33). A “media device’s video input and output can be optionally connected to any of the video pipes 26 of the video bus 14. Similarly, the

media device 24 audio inputs and outputs can be optionally connected to any of the audio bus 16 pipes 26" (col. 3, ll. 55-59).

6. Sato discloses "an interleaving method" (col. 3, l. 19) in which "two or more data units from a bitstream . . . [are arranged] in a particular sequence on the same time-base based on the presentation time of each data unit" (col. 3, ll. 20-26).
7. Sato discloses that when it is not possible to "achieve contiguous audio data reproduction" (col. 52, ll. 46-47), "[i]t is possible to . . . [write] the same (common) audio data to each angle within a multi-angle scene period on the smallest angle switching unit (ILVU) level" (col. 52, ll. 49-53).

PRINCIPLES OF LAW

35 U.S.C. § 103(a)

Section 103 forbids issuance of a patent when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."

KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1734 (2007).

The Court reaffirmed principles based on its precedent that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at 1739. The operative question in this "functional approach" is thus "whether the

improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* at 1740.

ANALYSIS

Sato discloses copying audio data to multiple angles within a multi-angle scene (FF 7). While we agree with the Examiner that Sato discloses that multiple audio data files are created, each file being copied to a respective angle of a scene, we disagree with the Examiner that Sato also discloses a first audio file interleaved with a first video file and, upon switching, the (same) first audio file is interleaved with a second video file (different from the first video file) as recited in claims 1, 21, 43, and 50.

The Examiner finds that “the appellant does not clearly define the first audio file to distinguish over an exact instance of the data, a copy of the data, or different data with the same file name” (Ans. 26). However, based on features recited in claims 1, 21, 43, and 50, we construe the term “the first audio file” as being equivalent to the first audio file interleaved with the first video file prior to switching, the same first audio file being interleaved with the second video file (different from the first video file) after switching as recited in claims 1, 21, 43, and 50. Because Sato discloses that multiple audio files are created and interleaved with different video files, it is apparent that Sato discloses different audio files that are interleaved with each of different video files, not the same “first audio file” that is interleaved with one video file prior to switching and a different video file after switching.

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Accordingly, we conclude that Appellants have met their burden of showing that the Examiner erred in rejecting independent claims 1, 21, 43, and 50, and of claims 2, 4-17, 19, 20, 22, 24-39, 41, 42, 44, 46-49, 51, 53-55, 57, and 58, which depend therefrom.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants have shown that the Examiner erred in finding that Sato discloses or suggests switching between video files including streaming a second video file which is different from the first video file without altering the first audio file, the second video file being interleaved with the first audio file.

DECISION

We reverse the Examiner's decision rejecting claims 1, 2, 4-17, 19-22, 24-39, 41-44, 46-51, 53-55, 57, and 58 under 35 U.S.C. § 103.

REVERSED

msc

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